

REMARKS

Claims 1-11 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicants respectfully disagree. “The constitutionally stated purpose of granting patent rights to inventors for their discoveries is the promotion of process in the ‘useful arts’ rather than in science... . [T]he present day equivalent of the term ‘useful arts’ employed by the Founding Fathers is ‘technological arts.’” *Diamond v. Chakrabarty*, 447 U.S. 303, 206 USPQ 193 (1980). As noted above, the terms useful arts and technological arts are interchangeable. Even if it is assumed, for the sake of argument, that the presently-claimed invention somehow relates to an abstract idea, when an abstract idea is reduced to a practical application, the abstract idea no longer stands alone if the practical application of the abstract idea produces a useful, concrete, and tangible result. *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 47 USPQ 2d 1596, (Fed. Cir. 1998). So long as a claimed invention produces a useful, concrete, and tangible result, the claimed invention satisfies 35 U.S.C. § 101. *Id.* Because the presently-claimed invention produces a useful, concrete, and tangible result, the requirements of 35 U.S.C. §101 are satisfied.

Given the above, Applicants respectfully submit that claims 1-11 recite statutory subject matter. Withdrawal of the §101 rejection of claims 1-11 is respectfully requested.

Claims 1-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,832,447 to Rieker et al. (“Rieker”), U.S. Patent No. 6,067,522 to Warady et al. (“Warady”), and in view of U.S. Patent No. 6,601,020 to Myers (“Myers”). The Office Action acknowledges that Rieker and Warady do not teach a master account table including account setup information for at least one of utilization and login actions for said web-based managed care transaction system, or a member account table including identity information for at least one member. It is asserted by the Office Action that Myers teaches a master account table and member table.

Applicants respectfully submit that there is no motivation to combine the health insurance eligibility system of Rieker and the health and welfare benefit enrollment system of Warady with a network load testing system as taught by Myers. There is no suggestion or hint of motivation in any of the cited references to adapt a healthcare system to include features of a

network testing system. It is asserted by the Office Action that the motivation to combine these references is found at col. 3, lines 50-55 of Myers. However, Applicants would respectfully point out that Myers does not mention the load test database being a healthcare benefit system or, and more importantly, that the system of Myers would be beneficial in the types of systems described in Rieker and Warady. Furthermore, neither Rieker nor Warady teach or suggest a load testing system such as that of Myers as desirable or beneficial.

As stated in MPEP §2143, “the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant’s disclosure.” Applicants respectfully submit that there is no motivation to combine the cited references as suggested by the Office Action. As such, Applicants request that the §103 rejection of claim 1 be withdrawn.

Claims 2-11 are either directly or indirectly dependent on claim 1 and should distinguish over Rieker, Warady, and Myers for at least the same reasons as stated above. Applicants request that the §103 rejection of claims 2-11 be withdrawn.

Claims 12-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rieker, Warady, U.S. Patent No. 6,263,522 to Bessette (“Bessette”), and Myers. As noted above, Applicants submit that there is no motivation to combine Rieker, Warady, and Myers as suggested by the Office Action. Bessette does not remedy the deficiencies of the combination of Rieker, Warady, and Myers in that Bessette also does not provide any motivation for combining a network testing system with the healthcare systems of Rieker and Warady. As such, Applicants submit that claims 12 and 13 distinguish over Rieker, Warady, Bessette, and Myers and request that the §103 rejection of claims 12 and 13 be withdrawn.

Claims 14-20 are either directly or indirectly dependent on claim 13 and distinguish over Rieker, Warady, Bessette, and Myers for at least the same reasons as stated above. Applicants respectfully request that the §103 rejection of claims 14-20 be withdrawn.

In view of the above, each of the presently-pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

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